IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

:: O R D E R ::

S.B. CIVIL WRIT PETITION NO. 3150/1994

R.S.R.T.C. & Anr.
Vs.
Rajasthan State Roadways Employees Union and Anr.

DATE OF ORDER :: 11.9.2007

PRESENT

HON'BLE MR. BHANWAROO KHAN, J.

Mr. Bagh Singh Bhati,for the petitioners.
None present for the respondent/s.

The instant writ petition has been filed against the award dated 13.4.1993 passed by the Industrial Tribunal, Udaipur in Industrial Disputes Case No.64/1990 whereby the penalty of one grade increment with cumulative effect imposed by the petitioner was replaced by the Court by stopping of one grade increment without cumulative effect. Aggrieved by the said order, the writ petition has been preferred against the award passed by the Industrial Tribunal, Udaipur.

In brief, facts of the case are that the respondent No.1 Union on behalf of workman Mangilal, who was appointed as Driver in the services of the petitioner-Corporation while working as such negligently handled the bus No. RNP-480 which was

driven from Ahmedabad to Udaipur and consumed more fuel and also broke the screw of speed control. A charge-sheet was served on him and enquiry was conducted by the enquiry officer. After due enquiry, enquiry report was submitted to the disciplinary authority, who after hearing the workman-Mangilal imposed the said punishment. Aggrieved by the said order, the Union of the Corporation raised an industrial dispute before the Conciliation Officer and the Conciliation Officer submitted a failure report to the Government and ultimately, matter was referred for its adjudication to the Industrial Tribunal, Udaipur. The Industrial Tribunal, Udaipur after hearing both the parties passed the award as aforesaid.

Heard learned counsel for the petitioner. No one has appeared on behalf of the respondent.

Learned counsel pleaded that vide Rajasthan State Road Transport Workers & Work Shop employees Standing Orders, 1965 (for short 'the Standing Orders, 1965' hereinafter) of the petitioner, Rule 36 provides that the mode of penalties be imposed for good and sufficient reasons and there is no difference or distinction between minor and major penalties for which a separate charge-sheet is needed or separate procedure or method is provided. Of course, under Rule 36 simply withholding of increment is mentioned. The main question to be decided is whether if a charge-

sheet issued and on being found guilty, the penalty imposed under Rule 36, which does not provide stoppage of grade increment with cumulative effect can be imposed or not.

Learned counsel for the petitioners contended that the Division Bench of this Court in the case of Krishna Dutta Sharma Vs. State of Rajasthan, RLR 1987 (1) 346 has already decided the point that stoppage of grade increment with cumulative effect is same to that of reduction to a lower post or grade which punishment is provided under Rule 36(vi) of the Standing Orders, 1965. The Division Bench of this Court held as under :-

> "While in case of withholding of grade increment with cumulative effect the Government servant is put to a financial loss for the entire period of his future service and the result is that he is put to one grade increment less for the entire period of his remaining service. In our view such penalty of withholding of grade increment with cumulative effect and reduction to a lower stage in the time scale as provided as one of the penalties under clause (iv) of Rule 14 are equivalent and have the same effect. Learned Additional Government

> Advocate was unable to explain any difference in the aforesaid two kinds of penalties. If a Government servant is given a penalty of reduction to a lower stage in the same time scale, then also such Government servant is put to a loss of one grade increment for the entire period of his service after such punishment. It remains undisputed that the penalty of reduction to a lower stage in the time scale as specified in clause (iv) of Rule 14 is a major lower stage in the time scale as specified in clause (iv) of Rule 14 is a major penalty and procedure for enquiry has to be followed as provided under Rule 16 of the Rules."

In view of law laid down by the Division Bench of this Court in the case of Krishna Dutta Sharma (supra) the penalty of stoppage of annual grade increment with cumulative effect is a penalty equal to the penalty of reduction to a lower stage in the time scale. It is not in dispute that a penalty of reduction to a lower stage in the time scale is specified as a major penalty under the Standing Orders. The Labour Court erred while holding that no penalty of stoppage of annual grade increments with

cumulative effect is prescribed under the Standing Orders. More so, when there is no separate rule or order for issuance of the charge-sheet for minor or major punishment and when for the grave charge the penalty of stoppage of annual grade increment can be imposed and certainly looking to the gravity of charge levelled against the respondent-workman the penalty of stoppage of grade increment with cumulative effect can also be imposed as punishment provided under Standing Order 36(vi) which amounts to reduction to a lower post or grade.

As a consequent to the discussion above, the writ petition deserves to be accepted and same is, therefore, allowed. The award impugned dated 13.4.1993 passed by the Industrial Tribunal, Udaipur is quashed. There shall be no order as to costs.

(BHANWAROO KHAN)J.

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